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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,217	09/14/2005	Boris Adam	10191/3723	1011

26646 7590 11/26/2007  
KENYON & KENYON LLP  
ONE BROADWAY  
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EXAMINER
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SUGLO, JANET L

ART UNIT	PAPER NUMBER
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2857

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11/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/524,217	Applicant(s) ADAM ET AL.	
	Examiner Janet Suglo	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 25, 2007 has been entered.

### ***Response to Amendment***

2. The action is responsive to the Amendment filed on October 25, 2007. Claims 6-10 are pending. Claims 1-5 have been cancelled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 6, 7, 9, and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Zumpano (US Patent 6,513,829) in view of Dirmeyer et al. (US Patent 5,748,075) (hereinafter Dirmeyer).

With respect to **claim 6**, Zumpano teaches a device for impact sensing (Zumpano: col 10, ln 52-67), comprising:

a processor (Zumpano: col 10, ln 63-65); and

at least two pressure sensors each detecting an impact based on pressure, wherein the at least two pressure sensors connectable to the processor to communicate at least one pressure value each to the processor, the processor being configured to perform an impact sensing based on the at least one pressure value (Zumpano: col 10, ln 52-67);

wherein the processor is connectable to at least one additional vehicle system to transmit the at least one pressure value to the at least one additional vehicle system (Zumpano: col 13, ln 63-65).

Zumpano does not expressly teach that the pressure sensors detect an impact based on adiabatic pressure increase. Dirmeyer teaches using pressure sensors which detect adiabatic pressure increases to detect side impact of a vehicle (Dirmeyer: abstract, col 4, ln 60-62). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Zumpano to include the pressure sensors based on adiabatic pressure increases of Dirmeyer because these sensors will ensure that only serious accidents will cause the passenger protection system to tripped (Dirmeyer: col 4, ln 1-5).

With respect to **claim 7**, Zumpano further teaches the at least one vehicle system is an injection system (i.e., inflation system injects air into inflatable members) (Zumpano: col 14, ln 13-24).

With respect to **claim 9**, Zumpano further teaches the at least one vehicle system is configured to control its function as a function of the at least one pressure value (Zumpano: col 14, ln 1-12).

With respect to **claim 10**, Zumpano further teaches the at least one pressure value is a differential pressure value (Zumpano: col 12, ln 59-67).

5. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Zumpano (US Patent 6,513,829) in view of Dirmeyer et al. (US Patent 5,748,075) (hereinafter Dirmeyer) and further in view of Bohner et al. (US Patent 6,269,903) (hereinafter "Bohner"). Zumpano and Dirmeyer teach all limitations of parent claim 6 as shown above, but do not expressly teach plausibility checking. Bohner teaches plausibility checking on pressure sensor values (Bohner: col 8, ln 1-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Zumpano to include the plausibility checking of Bohner because this will ensure proper functioning of the pressure sensors (Bohner: col 7, ln 61-63) and ensure that the system is functioning during emergency situations (Bohner: col 2, ln 5-7).

### ***Response to Arguments***

6. Applicant's arguments filed October 25, 2007 have been fully considered but they are not persuasive.

Applicant argues that Zumpano does not teach transmitting the at least one pressure value to the at least one vehicle system; however, Applicant's arguments are not well taken. As shown in the previous office action and as is copied in Applicant's arguments, Zumpano teaches at column 13, lines 63-65 that "summate pressure [P1] information is transmitted by the processor 20 to the opposing, cooperatively positioned inflatable member 24." This excerpt from Zumpano teaches that the pressure information is transmitted from the processor to the inflatable member, which is another vehicle system. As pointed out by Applicant, Zumpano teaches the summate pressure [P1] value is composed of individual pressure sensor values. Therefore the summate pressure is indeed the pressure sensor value. The summate pressure value can include more than one sensor value, but does not exclude the at least one sensor value. As demanded by the claim "the at least one pressure value" is transmitted "to the at least one vehicle system" within the summate pressure value.

Furthermore, as stated in MPEP 2114:

**APPARATUS CLAIMS MUST BE STRUCTURALLY DISTINGUISHABLE FROM THE PRIOR ART**

>While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. >In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); < In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original).

Zumpano teaches the structure capable of carrying out the function given in the apparatus claim 1. The claim further states that the "processor is *connectable* to at least one vehicle system" [emphasis added] further supporting the argument that the function is not claimed only that it is a possibility and capability. The apparatus must be capable of carrying out the function, but the functionality does not distinguish the claim from the prior art. As shown in the above rejection of claim 1, Zumpano teaches the structural limitations of claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Suglo whose telephone number is 571-272-8584. The examiner can normally be reached on Monday - Thursday from 6:30am - 5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Janet L Suglo  
November 20, 2007

  
JEFFREY R WEST  
EXAMINER - AU 2857